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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

| | | |
|---------------------------|---|-------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | No. 08 CR 888 |
| Government, |) | |
| |) | Chicago, Illinois |
| vs. |) | |
| |) | April 22, 2010 |
| ROD BLAGOJEVICH, |) | |
| ROBERT BLAGOJEVICH, |) | |
| |) | 5:02 o'clock p.m. |
| Defendants. |) | |

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES B. ZAGEL

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1 (The following proceedings were had in Room
2 2582:)

3 THE COURT: We're here and there's a court
4 reporter here to record this, but this is not a
5 hearing. We are not going to address anything
6 having to do with anybody's motions. My question is
7 is addressed to the technical issues of how
8 something which was in theory redacted was not
9 redacted, or to put it another way, the document
10 identifier seen clearly shows redactions.

11 MR. SOROSKY: Right. Let me say this,
12 Sheldon Sorosky, S-o-r-o-s-k-y, on behalf of the
13 defense, we're here with Aaron Goldstein.

14 Judge, whatever occurred was certainly not
15 intentional. We're sorry for what occurred, but we
16 honestly believe we did it the right way, and I'll
17 add a fourth point, even though I said of a third,
18 from a strategy point of view, not that it made much
19 difference, but it was our desire that this not be
20 exposed as readily as it was.

21 THE COURT: Which I accept.

22 MR. SOROSKY: That's true.

23 THE COURT: I cannot possibly see what good
24 this will do you from a tactical point of view. But
25 do we know why? And then I'm not concerned about

1 this or its effect on the case, or at least I'm not
2 concerned here, what I'm concerned about is
3 repetition.

4 MR. SOROSKY: Let me say this and perhaps
5 Aaron can explain why. We are willing in the future
6 to file all under sealed documents the old fashion
7 way, in person, in the era before computers. So
8 we'll do it that way, we're willing to do that as of
9 now. I'm not saying any routine document, but any
10 sealed document we will do that in the future, and
11 however the government wants it done, we'll file it
12 with them, so this won't happen again.

13 THE COURT: Has the government made any
14 inquiry into what happened? I'm sure what they did
15 is they broke whatever it was.

16 MR. SCHAR: The issue is a technical one, but
17 as I understand it, Judge, unless you redact things
18 properly and just turn it into a PDF, you can redact
19 it and scan it in or you take out certain data once
20 you turn it into an PDF document. Simply filing it
21 in, there's a way to then copy the PDF, the document
22 that is filed, into either word perfect or use
23 programs which exist, which we were able to do
24 pretty quickly to simply un-redact. So the
25 individuals who don't know what they are doing are

1 filing it, that's what ends up happening.

2 THE COURT: Okay.

3 MR. SCHAR: Obviously, a motion to address
4 that at a later time.

:05PM 5 There is a couple of things we want to state
6 on the record or at least seek some clarification on
7 that are of growing concern. First, you'll take
8 Mr. Sorosky at his word, he doesn't want this in the
9 public domain, I point out footnote 2 of the special
:05PM 10 filing which suggests the entire thing be unsealed.
11 So I don't know if there is the consistency between
12 the filing and what we're hearing in court.

13 We understood there was an in-camera
14 proceeding relating to very certain information that
:05PM 15 was provided and during that in-camera proceeding,
16 which was fully under seal, we obviously provided a
17 sheet of information to defense counsel and it was
18 our understanding, and I think you made clear, in
19 that proceeding the litigation anything relating to
:06PM 20 that document, which was still on, was to remain
21 under seal. And specific to that particular
22 litigation, within days from that occurring, we
23 heard from a lawyer at Winston who represents
24 Cellini, in fact, they told in the in-camera
:06PM 25 proceeding Rezko had been brought in the in-camera

1 proceeding and documents provided to the defense,
2 which we understood came to defense counsel. We
3 were in court yesterday. Clearly this is not a
4 filing that got put together last night. There have
5 been numerous subpoenas pitched by defense counsel,
6 including subpoenas to sitting senators, and this is
7 the only one they sought to file publicly. They
8 could have sought any type of guidance yesterday as
9 to whether if filed in whole in the initial instance
10 or any other thing. They chose not to do that for
11 reasons I don't fully understand.

12 I don't doubt the error in the filing of it
13 was a mistake; however, it's very troubling to the
14 government that the document that was actually
15 provided is cited now in the public domain at some
16 detail at paragraph 22 when that is still an issue
17 of ongoing in-camera litigation and in fact again
18 citing footnote 2 they suggest that information
19 related to Mr. Rezko should be in the public domain.

20 You know, this could have been resolved very
21 easily by -- in fact, I talked to Mr. Sorosky this
22 morning if they were going to file anything, and no
23 definitive reaction, even if, just as a courtesy,
24 like we did with the Santiago proffer, particularly
25 given the sensitivity and the references still

1 pending matters under seal in-camera litigation as
2 opposed to for whatever reason doing it the way they
3 did.

4 So in the government's view, there is a
5 disturbing and continuing trend as to how this is
6 being litigated and how serious certain individual
7 on the defense side, particularly certain
8 individuals who may not choose to appear here,
9 haven't appeared in the last in-camera hearing
10 taking the type of information that has been
11 provided.

12 THE COURT: Well, you said it and I'll deal
13 with it in the ordinary course of hearings rather
14 than meetings, and I'm sure Mr. Sorosky will pay
15 attention to your expression and discuss it with his
16 co-counsel.

17 MR. SOROSKY: Well, I couldn't help,
18 obviously your last reference was to Sam Adam, Jr.
19 He was not at the last in-camera hearing we had
20 because he was in the middle of another trial. And,
21 as a matter of fact, with all due respect, he was
22 preparing witnesses on our side of the defense
23 today, as you told me earlier this week you were
24 preparing witnesses and he really had nothing to do
25 with the filing of this motion. I'm not saying he

1 didn't have any input into the preparation and
2 content of the motion, I'm not saying that, but he
3 truly had nothing to do with the E filing of the
4 motion.

:09PM 5 So, frankly, you're barking up the wrong tree
6 if you feel he in any way intended this to occur.
7 He did not. None of us intended this to occur. And
8 we're sorry for what happened. And in the future, I
9 make the suggestion as an old-timer, anytime you
:10PM 10 want to file something under seal, we'll do it the
11 old fashion way, we'll do it in person so it will
12 not happen again. I don't know what else we could
13 say.

:10PM 14 MR. SCHAR: The only other thing I would add,
15 I know the press is outside. We did not tell them
16 about this hearing.

17 MR. SOROSKY: We did not talk to them today,
18 I didn't tell them.

:10PM 19 THE COURT: The point I tried to make, this
20 is not a hearing. This is a meeting for the sole
21 purpose of which was to hear a discussion about how
22 this may have happened and I've heard it. For what
23 it's worth, the press in not saying as to how they
24 got this. Maybe they didn't have to use the most
:11PM 25 sophisticated means to get it, but if I could

1 analogize for a minute, even if the window is left
2 open or the door unlocked, still not an invitation
3 to commit burglary. You know they knew it was under
4 seal, they acknowledged it was under seal, and they
5 acknowledged they did certain things to unseal it,
6 but that doesn't matter, they're not a party here.

7 MR. SOROSKY: I understand. I understand.

8 THE COURT: We'll deal with this in the
9 course of a hearing.

10 Thank you.

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12 (which concluded the proceedings had on
13 this date in the above entitled cause.)
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I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT
FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED
MATTER

/s/Blanca I. Lara

date

Blanca I. Lara

Date